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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/919,069 | 07/30/2001 | Richard Wodzianek | 034300-167 | 2663 |

7590 05/31/2005

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| EXAMINER |
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WALSH, JOHN B

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| ART UNIT | PAPER NUMBER |
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2151

DATE MAILED: 05/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 09/919,069 | Applicant(s) WODZIANEK, RICHARD | |
| | Examiner John B. Walsh | Art Unit 2151 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

RD

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-24 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,430,409 to Rossmann.

As concerns claim 1, a system comprising: a computer (column 8, lines 4-5) operably connected to a network (abstract, line 4; figures 5 and 7), the computer having software (inherent that computer has some form of software such as an operating system) adapted to track the status of multiple modem units (multiple cell phones), the software allowing for the production of status checks (message sent to the cell phones) to be sent to the multiple modem units; and modem units adapted to receive status check message (cell phones adapted to receive the message), the modem units being associated with host processors, the modem units being adapted to reply with status information without being controlled by the host processors (response from cell phone). The applicant should note that the claims have been interpreted with the condition that it has been held that the recitation that an element is "adapted to" perform a

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function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchison, 69 USPQ 138.

As concerns claims 2, 10 and 19, wherein the computer is connected by the Internet to a server (abstract, computer connected to a server and internet).

As concerns claims 3 and 11, wherein the server is connected to a cellular network (figure 7).

As concerns claim 4, wherein the computer system sends requests across the network through the server, across the cellular network to the individual modem units (figure 7).

As concerns claim 5, wherein the modem units receive the requests and transmit status information back across the cellular network to the computer (response from cell phone to the computer, which can be user initiated).

As concerns claims 6 and 12, wherein the modem units transmit across a cellular network (inherent that a cellular telephone is transmitting across a cellular network, 710).

As concerns claims 7, 14 and 20, wherein the modem units run the UDP protocol (714) over IP.

As concerns claim 8, 15 and 21, wherein the modem units do not have a TCP stack at the modem unit (have UDP 714).

As concerns claim 9, a computer (column 8, lines 4-5) adapted to track the status of multiple modem units (cell phones), the computer producing indications that result in status checks being sent to multiple modem units (messages sent to cell phones from the computer by way of a network), the computer receiving status information from the multiple modem units in response to the status checks (response message from cell phone to computer, can be user

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initiated), the status information being produced by modem units without being controlled by host processors associated with the modem units (produced at cell phone not at a host processor such as the network computer).

As concerns claim 13, wherein the requests are sent from the computer system across the cellular network to the modem unit and the status information is sent from the modem unit across the cellular network to the computer (figure 7).

As concerns claim 16, a method comprising: transmitting modem status requests to modem units across cellular network (a message from a network computer, figure 7); at the modem unit, determining whether status request is for that modem unit and, if so, constructing a status response and transmitting a wireless response from modem unit (a message sent to the network computer from a cell phone after receiving message from the network computer); receiving modem status responses from a number of modem units (network can have multiple cell phones) and producing a display for a group of modem units (inherent that network computer has a display such as a monitor wherein the message responses from the cell phones can be viewed).

As concerns claim 17, wherein the modem status requests are transmitted to the modem units across the cellular network (710).

As concerns claim 18, wherein the modem status requests are sent from a computer to the modem units (two way communication such that the computer can send a message, status request, to the cell phones, modem units).

As concerns claims 22-24, the status information comprises at least one of: modem unit identification information (column 6, line 60; column 8, lines 3-4).

Response to Arguments

3. Applicant's arguments filed March 10, 2005 have been fully considered but they are not persuasive.

The applicant argues that Rossman does not disclose a status check. The computer of Rossman is configured to produce status checks and status information in the form of messages. These messages include status information such as the resource locator. Furthermore the cell network has built in control/status information that keeps track, via messages, of which cell a cell phone is transmitting and receiving.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

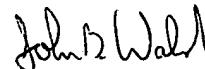
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John B. Walsh whose telephone number is 571-272-7063. The examiner can normally be reached on Monday-Wednesday from 5:30-4:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571-272-3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John B. Walsh
Primary Examiner
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